

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION X

1200 SIXTH AVENUE  
SEATTLE, WASHINGTON 98101



REPLY TO  
ATTN OF: Mail Stop 521

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

10 JUN 1981

M. M. McGee, General Manager  
Cyprus Mines Corporation  
P. O. Box 755  
Challis, Idaho 83226

Re: NPDES Application No.: ID-002540-2, Cyprus Mines Corporation

Dear Mr. McGee:

The Environmental Protection Agency (EPA) has made the determination to issue a National Pollutant Discharge Elimination System (NPDES) waste water discharge permit to the referenced facility pursuant to section 402 of the Clean Water Act. The enclosed document is your official copy of the permit and demonstrates that your facility is duly authorized to discharge to the receiving waters subject to certain specified requirements.

Enclosed for your use are five copies of EPA Discharge Monitoring Report Form 3320-1, and Instructions and Guidelines in preparing Discharge Monitoring Reports.

This permit will become effective immediately.

Sincerely,

Lloyd A. Reed, Director  
Enforcement Division

Enclosures

cc: Idaho Operations Office ✓  
Idaho Department of Health and Welfare  
Idaho Department of Health and Welfare, Region III

Permit No.: ID-002540-2

Application No.: ID-002540-2

AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Federal Water  
Pollution Control Act, as amended, (33 U.S.C. 1251 et. seq; the  
"Act"),

Cyprus Mines Corporation

is authorized to discharge from a facility located near Challis,  
Idaho to the following receiving waters:

<u>Outfall</u>	<u>Receiving Stream</u>
001	Buckskin Creek
002	Pat Hughes Creek

in accordance with discharge point(s), effluent limitations,  
monitoring requirements and other conditions set forth herein.

This permit shall be effective on June 10, 1981.

This permit and the authorization to discharge shall expire at  
midnight, June 10, 1986.

Signed this 10th day of June, 1981.

  
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Director, Enforcement Division

# I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. During the period beginning on the effective date and lasting through the date of expiration, the permittee is authorized to discharge from outfall(s) serial number(s) 001 (Buckskin Creek) and 002 (Pat Hughes Creek).

1. Such discharges shall be limited and monitored by the permittee as specified below:

<u>EFFLUENT CHARACTERISTIC</u>	<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
	kg/day <u>Daily Avg.</u>	(lbs/day) <u>Daily Max</u>	Other Units (Specify) <u>Daily Avg.</u> <u>Daily Max</u>		<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow (1000 gpd)	-	-	-	-	Daily	-
Suspended Solids (mg/l)	-	-	20	30	Weekly	Grab
Cadmium (mg/l)	-	-	-	-	Quarterly	Grab
Copper (mg/l)	-	-	-	-	Quarterly	Grab
Zinc (mg/l)	-	-	-	-	Quarterly	Grab
Arsenic (mg/l)	-	-	-	-	Quarterly	Grab

2. The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units and shall be monitored weekly by grab samples.
3. There shall be no discharge of floating solids or visible foam in other than trace amounts.
4. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following locations: in the effluent stream (or pipelines) below the settling basins prior to discharge to the receiving streams.

B. In addition to the above referenced effluent monitoring, the permittee shall provide for instream monitoring of turbidity to assure that the State's turbidity criteria (as specified in the Idaho Water Quality Standards and Wastewater Treatment Requirements, 1-2400.01, January 30, 1980) are not violated by the discharges. The limitations on suspended solids specified in I.A above are believed adequate to prevent severe violations. Future limitations may be based in part on the results of the instream monitoring.

1. Monitoring of turbidity shall be provided at the following locations:

Site 1: Above the confluence with Buckskin Creek, but below the confluence with Alder Creek (WQM Site #TC-5).

Site 2: Below the mixing zone at the confluence with Buckskin Creek, but above the confluence with the unnamed creek (WQM Site #TC-4).

Site 3: Below the confluence with the unnamed creek, but above the confluence with Pat Hughes Creek (WQM Site #TC-3).

Site 4: Below the mixing zone at the confluence with Pat Hughes Creek (WQM Site #TC-2).

2. Monitoring shall be performed not less often than:

(1). Monthly during "base flow" period

(2) Weekly during spring thaw and snow melt (generally April 1-30)

(3) Daily during storm events

3. Samples shall be taken between 1:00 p.m. and 6:00 p.m.

4. Instream monitoring results shall be reported quarterly (in March, June, September, and December) to the Environmental Protection Agency and the Idaho Department of Health & Welfare at the addresses given in Part II.D. below.

C. The permittee shall continue to provide for water quality monitoring in accordance with the program agreed upon by the USFS, BLM, IDHW, and Cyprus, subject to such future modifications as may be mutually agreed upon by the parties.

D. Definitions

1. The "daily average", other than for fecal coliform bacteria, is the arithmetic mean of samples collected during a monitoring month. The monthly average for fecal coliform bacteria, is the geometric mean of samples collected during a monitoring month.
2. The "daily maximum" discharge means the maximum value recorded during a monitoring month.
3. A "monitoring month" consists of those calendar weeks ending within a calendar month. A calendar week consists of seven consecutive days ending at midnight on Saturday night.
4. A "grab" sample is an individual sample collected over a period not exceeding 15 minutes. The usual collection procedure is to fill the sample container all at one time.

## II. MONITORING AND RECORDING REQUIREMENTS

A. Representative Sampling Sampling and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other wastestream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Director.

B. Flow Measurements Appropriate flow measurement devices and methods shall be used to insure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, annually calibrated and maintained to insure that the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than + 10% from true discharge rates throughout the range of expected discharge volumes.

C. Monitoring Procedures Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

D. Reporting of Monitoring Results Monitoring results shall be summarized each month on a Discharge Monitoring Report form (DMR: EPA No. 3320-1). The reports shall be submitted monthly and are to be postmarked by the 14th day of the following month. Legible copies of these, and all other reports herein, shall be signed and certified in accordance with the requirements of Signatory Requirements, under General Requirements, and submitted to the Director, Enforcement Division and the State agency at the following addresses:

original to: United States Environmental Protection Agency  
Region 10  
1200 Sixth Avenue  
Seattle, Washington 98101

Attn: Water Compliance Section, Mail Stop 513

copy to: Department of Health & Welfare  
State House  
Boise, Idaho 83720

E. Notice of Noncompliance The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally ( 384-1450 ) within 24 hours from the time the permittee becomes aware of the noncompliance discharge. A written submission shall also be provided within 5 days. The written submission shall be addressed according to Reporting of Monitoring Results, above and shall contain:

1. A description of the noncompliance and its cause;
2. The period of noncompliance, including exact dates and times;
3. The estimated time noncompliance is expected to continue if it has not been corrected; and
4. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

F. Twenty-Four Hour Reporting The following shall be included as instances which must be reported within 24 hours:

- a. Any unanticipated bypass which exceeds any effluent limitation in the permit. (See Bypass of Treatment Facilities under General Requirements).
- b. Any upset which exceeds any effluent limitation in the permit. (See Upset Conditions under General Requirements).

G. Additional Monitoring by the Permittee If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.

H. Changes in Discharge of Toxic Substances The permittees must notify the Director as soon as they know or have reason to believe:

1. That any activity has occurred or will occur which would result in the discharge of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - a. One hundred micrograms per liter (100 ug/l);
  - b. Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

- c. Five (5) times the maximum concentration value reported for that pollutant in the permit application;
2. That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application.

I. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

J. Records Contents

Records of monitoring information shall include:

- a. The date, exact place, time and methods of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed.
- d. The individual(s) who performed the analyses.
- e. The analytical techniques or methods used and
- f. The results of such analyses.

### III. GENERAL REQUIREMENTS

A. Signatory Requirements All applications, reports or information submitted to the Director shall be signed and certified.

1. All permit applications shall be signed as follows
  - a. For a corporation: by a principal executive officer of at least the level of vice president
  - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - a. The authorization is made in writing by a person described above.
  - b. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and
  - c. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

B. Proper Operation and Maintenance The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

C. Duty to Halt or Reduce Activity Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced or lost. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Bypass of Treatment Facilities

1. Definitions

- a. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
- b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

2. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 3 and 4 of this section.

3. Notice

- a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
- b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Twenty-four Hour Reporting of Noncompliance.

4. Prohibition of bypass.

- a. Bypass is prohibited and the Director may take enforcement action against a permittee for bypass, unless:
  - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - (3) The permittee submitted notices as required under paragraph 3 of this section.
- b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 4a of this section.

E. Upset Conditions

- 1. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation.
- 2. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph 3 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action to judicial review.
- 3. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An upset occurred and that the permittee can identify the specific cause(s) of the upset;
  - b. The permitted facility was at the time being properly operated; and

- c. The permittee submitted notice of the upset as required under Twenty-four Hour Reporting of Noncompliance.
  - d. The permittee complied with any remedial measures required under Duty to Mitigate.
4. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

F. Removed Substances Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

G. Inspection and Entry The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- 1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- 3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and
- 4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

H. Permit Actions This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

- 1. Violation of any terms or conditions of this permit;
- 2. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
- 3. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

I. Toxic Pollutants Notwithstanding the paragraph above Permit Actions, if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the permittee so notified.

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

J. Duty to Comply The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination; revocation and reissuance, or modification; or for denial of a permit renewal application.

K. Penalties for Violations of Permit Conditions The Clean Water Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

L. Penalties for Tampering The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

M. Penalties for Falsification of Reports The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

N. Civil and Criminal Liability Except as provided in permit conditions on Bypass of Treatment Facilities and Upset Conditions, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

O. Duty to Mitigate The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

P. Duty to Reapply If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this permit.

Q. Duty to Provide Information The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

R. Other Information When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director, it shall promptly submit such facts or information.

S. Planned Changes The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility that would effect the waste discharge or compliance status.

T. Anticipated Noncompliance The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

U. Availability of Reports Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Regional Administrator. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

V. Oil and Hazardous Substance Liability Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

W. State Laws Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

X. Property Rights The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

Y. Severability The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

Z. Transfers This permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date;
2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2. above.